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Attorneys for Fariborz Pakseresht and Ashley Carson-Cottingham

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

PAUL KWAKE, an individual, DANIEL  
CAMPBELL, an individual, DOROTHY  
HAWLEY, an individual, and GARY  
ROMINE, an individual,

Plaintiffs,

v.

FARIBORZ PAKSERESHT, in his official  
capacity as Director of Human Services, State  
of Oregon; and ASHLEY CARSON-  
COTTINGHAM, in her official capacity as  
Director of Office of Aging and People with  
Disabilities, a division within the Department  
of Human Services, State of Oregon; and  
JODY N. CLINE, in her capacity as Director  
of Senior and Disability Services, a division  
within the Lane Council of Governments,

Defendants.

Case No. 6:18-cv-00603-JR

STATE DEFENDANTS' RESPONSE TO  
PLAINTIFF KWAKE'S MOTIONS FOR  
ENTRY OF DEFAULT FINAL JUDGMENT

Mr. Kwake has moved for default judgment against Fariborz Pakseresht and Ashley  
Carson-Cottingham (collectively, "State Defendants") pursuant to Fed. R. Civ. P. 55(b)(2). *See*

ECF Nos. 34 & 35. He contends State Defendants have “failed to answer, plead or otherwise respond within the time ordered by this court or allowed by FRCP 15(a)(3).” *Id.* The Court should deny the motions, as there is no basis for default judgment against State Defendants.

The response to Plaintiffs’ complaint (ECF No. 1) was due on May 2, 2018; however, State Defendants’ moved for an extension of time to respond. ECF No. 14. The Court granted the motion, which Mr. Kwake did not oppose, and set the new response date for May 23, 2018. ECF Nos. 14, 16. On May 8, 2018, Plaintiffs filed an amended complaint. ECF No. 19. On May 17, 2018, well before the deadline for State Defendants’ to respond to the original complaint lapsed, the Court, *sua sponte*, entered an order stating that Defendants had twenty-one days from the date of that order to file a responsive pleading to the amended complaint. ECF No. 26. Thus, the deadline to respond to Plaintiffs’ amended complaint was June 7, 2018. *See* Fed. R. Civ. P. 15(a)(3) (time to respond to an amended pleading can be set by court order). State Defendants timely filed their motions to dismiss and motion to strike on June 6, 2018. ECF No. 38. Therefore, because State Defendants responded to the amended complaint within the time ordered by this Court, Mr. Kwake’s motions should be denied.

DATED June 8, 2018.

Respectfully submitted,

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s/ Patricia G. Rincon

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**CERTIFICATE OF SERVICE**

I certify that on June 8, 2018, I served the foregoing STATE DEFENDANTS' RESPONSE TO PLAINTIFF KWAKE'S MOTIONS FOR ENTRY OF DEFAULT FINAL JUDGMENT upon the parties hereto by the method indicated below, and addressed to the following:

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